

105TH CONGRESS  
1ST SESSION

# S. 431

To amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

MARCH 12, 1997

Mr. MURKOWSKI (for himself, Mr. STEVENS, Mr. GORTON, Mr. BURNS, Mr. CRAIG, Mr. KEMPTHORNE, and Mr. SMITH of Oregon) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To amend title 28, United States Code, to divide the ninth judicial circuit of the United States into two circuits, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

### 3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ninth Circuit Court  
5 of Appeals Reorganization Act of 1997”.

### 6 **SEC. 2. NUMBER AND COMPOSITION OF CIRCUITS.**

7 Section 41 of title 28, United States Code, is amend-  
8 ed—

1 (1) in the matter before the table, by striking  
2 “thirteen” and inserting “fourteen”;

3 (2) in the table, by striking the item relating to  
4 the ninth circuit and inserting the following new  
5 item:

“Ninth ..... Arizona, California, Hawaii, Nevada,  
Guam, Northern Mariana Is-  
lands.”;

6 and

7 (3) between the last 2 items of the table, by in-  
8 serting the following new item:

“Twelfth ..... Alaska, Idaho, Montana, Oregon,  
Washington.”.

#### 9 **SEC. 3. NUMBER OF CIRCUIT JUDGES.**

10 The table in section 44(a) of title 28, United States  
11 Code, is amended—

12 (1) by striking the item relating to the ninth  
13 circuit and inserting the following new item:

“Ninth ..... 19”;

14 and

15 (2) by inserting between the last 2 items at the  
16 end thereof the following new item:

“Twelfth ..... 7”.

#### 17 **SEC. 4. PLACES OF CIRCUIT COURT.**

18 The table in section 48 of title 28, United States  
19 Code, is amended—

1           (1) by striking the item relating to the ninth  
2           circuit and inserting the following new item:

“Ninth ..... San Francisco, Los Angeles.”;

3           and

4           (2) by inserting between the last 2 items at the  
5           end thereof the following new item:

“Twelfth ..... Portland, Seattle.”.

6 **SEC. 5. ASSIGNMENT OF CIRCUIT JUDGES.**

7           Each circuit judge in regular active service of the  
8           former ninth circuit whose official station on the day be-  
9           fore the effective date of this Act—

10           (1) is in Arizona, California, Hawaii, Nevada,  
11           Guam, or the Northern Mariana Islands is assigned  
12           as a circuit judge of the new ninth circuit; and

13           (2) is in Alaska, Idaho, Montana, Oregon, or  
14           Washington is assigned as a circuit judge of the  
15           twelfth circuit.

16 **SEC. 6. ELECTION OF ASSIGNMENT BY SENIOR JUDGES.**

17           Each judge who is a senior judge of the former ninth  
18           circuit on the day before the effective date of this Act may  
19           elect to be assigned to the new ninth circuit or to the  
20           twelfth circuit and shall notify the Director of the Admin-  
21           istrative Office of the United States Courts of such elec-  
22           tion.

23 **SEC. 7. SENIORITY OF JUDGES.**

24           The seniority of each judge—

1           (1) who is assigned under section 5 of this Act;

2           or

3           (2) who elects to be assigned under section 6 of

4           this Act;

5 shall run from the date of commission of such judge as

6 a judge of the former ninth circuit.

7 **SEC. 8. APPLICATION TO CASES.**

8           The provisions of the following paragraphs of this

9 section apply to any case in which, on the day before the

10 effective date of this Act, an appeal or other proceeding

11 has been filed with the former ninth circuit:

12           (1) If the matter has been submitted for deci-

13 sion, further proceedings in respect of the matter

14 shall be had in the same manner and with the same

15 effect as if this Act had not been enacted.

16           (2) If the matter has not been submitted for de-

17 cision, the appeal or proceeding, together with the

18 original papers, printed records, and record entries

19 duly certified, shall, by appropriate orders, be trans-

20 ferred to the court to which it would have gone had

21 this Act been in full force and effect at the time

22 such appeal was taken or other proceeding com-

23 menced, and further proceedings in respect of the

24 case shall be had in the same manner and with the

1 same effect as if the appeal or other proceeding had  
2 been filed in such court.

3 (3) A petition for rehearing or a petition for re-  
4 hearing en banc in a matter decided before the effec-  
5 tive date of this Act, or submitted before the effec-  
6 tive date of this Act and decided on or after the ef-  
7 fective date as provided in paragraph (1) of this sec-  
8 tion, shall be treated in the same manner and with  
9 the same effect as though this Act had not been en-  
10 acted. If a petition for rehearing en banc is granted,  
11 the matter shall be reheard by a court comprised as  
12 though this Act had not been enacted.

13 **SEC. 9. DEFINITIONS.**

14 For purposes of this Act, the term—

15 (1) “former ninth circuit” means the ninth ju-  
16 dicial circuit of the United States as in existence on  
17 the day before the effective date of this Act;

18 (2) “new ninth circuit” means the ninth judicial  
19 circuit of the United States established by the  
20 amendment made by section 2(2) of this Act; and

21 (3) “twelfth circuit” means the twelfth judicial  
22 circuit of the United States established by the  
23 amendment made by section 2(3) of this Act.

1   **SEC. 10. ADMINISTRATION.**

2           The court of appeals for the ninth circuit as con-  
3   stituted on the day before the effective date of this Act  
4   may take such administrative action as may be required  
5   to carry out this Act. Such court shall cease to exist for  
6   administrative purposes on July 1, 1999.

7   **SEC. 11. EFFECTIVE DATE.**

8           This Act and the amendments made by this Act shall  
9   become effective on October 1, 1997.

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